IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 1611 of 2007
Date of decision : 23.3.2007.

Vijay Kumar

...Petitioner.

Versus

Kamlesh Rani

...Respondent.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Sudhir Pruthi, Advocate
for the petitioner.

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VINOD K. SHARMA, J. (ORAL)

The present revision petition has been filed against the order dated 13.9.2006 passed by the learned Civil Judge (Jr. Divn.), Jalandhar dismissing the application moved by the plaintiff petitioner under Order 11 Rule 1 C.P.C. for directing the respondent defendant to answer the interrogatories.

The plaintiff petitioner had filed a suit for declaration to the effect that the sale deed No. 466 dated 1.2.2000 executed by Vishal Syal son of Sh. Ashok Kumar Syal as Special Power of Attorney of Satpaul Puri is illegal, wrong, without consideration, fake and sham transaction conferring no right in the defendant in the property i.e. a portion of plot No. 24, comprised in khasra No. 3377/325-327 shown as red in the site plan attached with the plaint. Permanent injunction was also sought restraining the defendant from interfering in the possession of the plaintiff-petitioner

illegally and forcibly. On the pleadings of the parties, issues were framed on 26.3.2004. However, the plaintiff failed to prove his case by producing cogent and convincing evidence.

In view of this, the application moved by the petitioner plaintiff was contested on the ground that no grounds are made to answer the interrogatories and further that the application was merely filed to delay the proceedings as plaintiff has failed to produce any evidence after framing of issues. The learned Trial Court dismissed the application by observing that plaintiff was required to prove his case by leading evidence and, therefore, there is no merit in the application. The petitioner has challenged the order by relying upon the judgment of this Court in the case of ***Satya Devi Vs. Kanta Rani 1999(2) CCC 143 (P&H)*** to contend that as the plaintiff is yet to start his evidence, the application moved by the petitioner under Order 11 Rule 1 C.P.C. should have been allowed. The judgment relied upon by the learned counsel for the petitioner does not apply to the facts of the case nor supports the contention of the learned counsel for the petitioner. In the case of Satya Devi Vs. Kanta Rani case (Supra) the application moved for answering interrogatories was rejected as the parties had already led their evidence.

The learned counsel for the petitioner thereafter places reliance on the judgment of the Hon'ble Andhra Pradesh High Court in the case of ***T. Ramachandlaiah Vs. N.R. Suyodhanan 2000(2) Civil Court Cases 136 (A.P.)*** to contend that before application for answering the interrogatories was rejected it was for the Court to consider the relevancy of the said interrogatories. The reliance by the learned counsel for the petitioner on the

judgment in the case of ***T. Ramachandlaiah Vs. N.R. Suyodhanan*** (supra) is totally misconceived as in the said case the Hon'ble High Court has been pleased to set aside the order which allowed the interrogatories to be answered without going into the relevance of the same. Thereafter the learned counsel for the petitioner places reliance on the judgment of the Hon'ble Supreme Court in the case of ***Raj Narain Vs. Smt. Indira Nehru Gandhi and another AIR 1972 SC 1302*** to contend that the questions which are relevant for cross-examination are not necessarily relevant as interrogatories. The Hon'ble Supreme Court in the said case was pleased to lay down that the only questions that are relevant as interrogatories or those relating to any other question, the interrogatories served must have reasonably disclose connection with matter in issue.

I fear that this judgment also does not remotely apply to the present case. It may be noticed that in the present case the petitioner had failed to disclose the relevancy of the interrogatories to the subject matter in dispute as the assertions made in the application were only that the plaintiff required the defendant to answer the interrogatories as enclosed with the application. The application moved by the petitioner, therefore, was prima facie not competent under Order 11 Rule 1 C.P.C.

The discretion exercised by the learned trial Court in rejecting the application as framed by the petitioner, therefore, was right and no interference by this Court in exercise of revisional jurisdiction is called for.

No merit.

Dismissed.

23.3.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**